



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/686,815

10/17/2003

Emma A. Durand

009554-0306194

8788

136 7590 02/09/2009

JACOBSON HOLMAN PLLC  
400 SEVENTH STREET N.W.  
SUITE 600  
WASHINGTON, DC 20004

EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

02/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte:* EMMA A. DURAND and MICHAEL J. PALOMBO

---

Application No. 10/686,815  
Technology Center 3600

---

Mailed: February 9, 2009

---

Before Deborah L. Perry, *Supervisory Paralegal Specialist, Review Team.*  
Perry, *Supervisory Paralegal Specialist, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 29, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on November 3, 2006, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matter still requiring attention prior to docketing is the Examiner’s Answer, (9) Grounds of Rejection (pg. 3); it is not sufficient to merely restate the grounds of rejection without providing the required explanation.

MPEP § 1207.02: “*Grounds of Rejection.*” For each ground of rejection maintained by the examiner and each new ground of rejection (if any), an explanation of the ground of rejection.

. . . . (d) For each rejection under 35 U.S.C. 103, the examiner's answer must:

(i) state the ground of rejection and *point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on in the rejection*,

(ii) *identify the differences between the rejected claims and the prior art relied on (i.e., the primary reference)*, and

(iii) explain why it would have been obvious at the time the invention was made to a person of ordinary skill in the art to have modified the primary reference to arrive at the claimed subject matter. . . .

(e) For each rejection under 35 U.S.C. 102 or 103 where there are questions as to how limitations in the claims correspond to features in the prior art even after the examiner complies with the requirements of paragraphs (c) and (d) of this section, the examiner must compare at least one of the

rejected claims feature by feature with the prior art relied on in the rejection. The comparison must align the language of the claim side-by-side with a reference to the specific page, line number, drawing reference number, and quotation from the prior art, as appropriate. . . .

A revised and/or Corrected Examiner's Answer that is in full compliance with 37 C.F.R. § 41.37 is required.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) VACATE the Examiner's Answer mailed November 3, 2006;
- 2) issue and mail a Corrected Examiner's Answer complying with 37 C.F.R. § 41.37; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DPL

Jacobson Holman, PLLC  
400 Seventh St., N.W.  
Suite 600  
Washington, DC 20004